

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:

RALPH E. DUKES,

Debtor(s)

Case No: B-1381432 C-13D

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee (“Trustee”) and respectfully objects to confirmation of the Debtor’s plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtor filed a petition under Title 11 of the United States Code, Chapter 13, on November 7, 2013, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On November 7, 2013, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and Local Rule 83.11 entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The Debtor’s plan proposes a monthly payment of \$227.00 for a period of at least 36 months. No dividend is proposed to unsecured creditors.
5. The Internal Revenue Service has filed a claim in the amount of \$59,342.16 representing estimated withholding taxes for 2007 through 2013 entitled to priority pursuant to 11 U.S.C. §507(a)(8).
6. The Trustee objects to confirmation of the plan in that the Debtor’s proposed plan payments are not sufficient to satisfy all secured and priority claims, particularly the IRS claim, within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtor’s plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307;

2. In the alternative, that the Debtor's plan be modified to provide for plan payments of \$1,305.00 for a period of 60 months; or
3. For such other and further relief as the Court may deem just or proper.

This the 30th day of December, 2013.

/s/ Benjamin E. Lovell
Benjamin E. Lovell
Attorney for the Trustee
State Bar No: 23266
P.O. Box 3613
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Ralph E. Dukes, 114 Sandstone Rd., Roxboro, NC 27574, and William P. Miller, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 30th day of December, 2013

s/Benjamin E. Lovell
Benjamin E. Lovell, Esq.
Attorney for the Standing Trustee